

finding that such a reading “[could not] be squared with the statute’s text, context, and history.” Slip op. at 2; *see also id.* at 7-19. In sum, § 924(c)(3)(b) is unconstitutional and no longer good law capable of sustaining a conviction. Slip Op. at 24.

Because Al-Timimi’s convictions under Counts 1, 7, and 8 all depend on § 924(c)(3)(b), the defense’s position¹ is that *Davis* resolves the pending motions in Al-Timimi’s favor, *see* Dkt. Nos. 432 (Counts 7 and 8) & 445 (Count 1), and respectfully requests the relief outlined in the proposed order attached as Exhibit B.

Separate from these motions for acquittal, the defense also has an evidentiary motion pending before this Court pursuant to the Fourth Circuit’s 2015 remand order. *See* Dkt. Nos. 417-418; 420 (government opposition brief); 430 (reply brief). The defense would welcome a status hearing, or an order for additional briefing should it please the Court.

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Respectfully submitted,

/s/

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¹ The defense also notes that the U.S. Attorney for the Eastern District of North Carolina has just advised the Fourth Circuit that it no longer opposes issuance of the mandate in *United States v. Simms* (15-4646) (en banc) in light of *Davis*. (Letter attached as Exhibit C.)

